REMARKS

Claims 1 through 40 are in the application. Claims 2-6, 10-12, 15-19, 28-34, 36-38 and 40 stand withdrawn from consideration. Claims 1, 20, 35 and 39 are the independent claims now under consideration. No new matter has been added. (Indeed, no amendments are being made in this paper.) Reconsideration and further examination are respectfully requested.

Claim Rejections – 35 USC § 103

Claims 1, 7, 9, 13-14, 20, 22-27, 35 and 39 rejected under 35 U.S.C. 103(a) as being unpatentable over Nordlicht et al., U.S. Patent Application Publication 2002/0194115 in view of Securities Exchange Act of 1934, Rules 11Ac1-5 and 11Ac1-7 (Refs. U and V).[1]

These rejections are respectfully traversed for reasons that are set forth below.

Claim 1 is directed to a "method", which includes "identifying an option limit order", where the option limit order "includ[es] information identifying a customer, information identifying a desired option, and information that indicates a limit price for said option limit order". The method of claim 1 also includes "receiving a substantially real time feed of option market data" and "using the option market data in real time to identify at least one of a trade-through transaction relevant to said option limit order and a trade-at transaction relevant to said option limit order". Claim 1 specifies that the "identifying" step "occur[s] at a time prior to said option limit order being fully executed, deleted or canceled".

The Examiner apparently (for the most part) takes applicants' point[2] that the Nordlicht reference has nothing to do with trade-through or trade-at transactions, in that Nordlicht presents a single unified marketplace, and not a fragmented market in which trade-ats or trade-throughs are possible. The Examiner has responded to this point by relying on certain Securities and Exchange Commission rules releases that discuss trade-through reporting. In particular, the Examiner asserts that Refs. U and V teach:

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[1] Applicants believe that it was also the Examiner's intention that this rejection be applicable to claims 8 and 21.

[2] Stated at pages 15-16 of the Amendment and Response filed herein on August 6, 2007.

> using the option market data in real time to identify a trade-through transaction relevant to said option limit order, said identifying occurring at a time prior to said option limit order being fully executed, deleted or canceled … .[3]

Applicants respectfully submit that the documents cited by the Examiner do not support the above-quoted assertion by the Examiner. Applicants believe the Examiner was correct in later[4] characterizing Rule 11Ac1-7 as

> requir[ing] a broker to disclose to its customer when an order placed by the customer is executed at an inferior price to a better published price on another market at that same instant.

However, it does not follow that this requirement would lead those of ordinary skill either to use market option data in real time to identify trade-through transactions, nor to perform the identifying of the trade-through transaction prior to the customer's order being fully executed, deleted or canceled. Indeed, until the customer's order is executed, the rule does not raise any obligation to identify a trade-through transaction. Moreover, the rule does not require that the customer be notified of the trade-through until "completion"[5] (i.e. customer's payment in settlement of the transaction) of the customer's transaction. This occurs a considerable period of time after execution.

Thus, it is submitted that the combination of references relied upon by the Examiner fails to teach certain limitations of claim 1, and that the rejection of claim 1 should therefore be reconsidered and withdrawn.

Since claims 7-9, 13 and 14 are dependent on claim 1, the same are believed to be patentable on the same basis as claim 1. However, applicants will also make the following additional comments as to the rejections of certain of these dependent claims.

As to claim 7, applicant respectfully disputes the Examiner's assertion that the Nordlicht reference discloses either tabulating trade-at or trade-through data, or comparing such tabulated

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[3] See page 4 of the pending Office Action, lines 11-14. Emphasis added to quoted portion of the Office Action.

[4] At lines 18-20 of page 4 of the pending Office Action.

[5] See page 9, last paragraph, of Ref. V.

data with tabulated fulfillment data. In fact, as noted above, Nordlicht has no teachings at all concerning either trade-at or trade-through transactions. Correspondingly, the portions of Nordlicht (paragraphs 82, 83 and 139 and FIG. 7A) cited by the Examiner in regard to claim 7 provide no support for the Examiner's reliance thereon.

As to claim 14, again applicant respectfully disputes the Examiner's characterization of the Nordlicht reference. Nordlicht clearly fails to disclose "disregarding" a trade-at or trade-through transaction, since Nordlicht does not even mention such transactions. Paragraph 86 of Nordlicht, cited by the Examiner in this connection, has to do with mechanics of a graphical user interface for order entry, and is irrelevant to the subject matter recited in claim 14.

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Applicants will now turn to the rejection of claim 20. Claim 20 is directed to a "method", which includes "receiving a plurality of option limit orders". Claim 20 specifies that "each of said option limit orders includ[es] information identifying a respective desired option, and information that indicates a respective limit price for said option limit order". The method of claim 20 further includes "tabulating at least one of trade-through data and trade-at data for the plurality of option limit orders", "tabulating fulfillment data for the plurality of option limit orders" and "comparing the tabulated fulfillment data to the tabulated at least one of trade-through data and trade-at data".

It appears to applicants that the Examiner's reasoning with respect to claim 20 runs something like this: (1) Nordlicht teaches all of claim 20 except that it does not involve trade-through data; (2) the SEC references teach trade-through data; and (3) if you plug in the SEC reference teachings about trade-through data into Nordlicht's system, you end up with claim 20.

Putting aside the point that this is not really an appropriate way of formulating an obviousness rejection,[6] there are at least two other significant problems with this rejection. First, the Examiner's assertion that Nordlicht teaches "comparing the tabulated fulfillment data to the [unspecified type of] tabulated data" is not even a meaningful statement, in the absence of some indication of what the latter type of tabulated data is. Second, and even more fundamental, Nordlicht does not even appear to disclose <u>comparing</u> one type of tabulated data to another. The portions of Nordlicht cited by the Examiner as allegedly so disclosing—

[6] …although Examiners do it all the time.

paragraphs 82, 83, 139 and FIG. 7A[7]--do not really discuss comparing anything to anything. Rather, those portions seem to be concerned with reports or displays of trading information.

Thus, as in the case of claim 1, applicants contend that at least some limitations of claim 20 are not disclosed in the combination of references applied by the Examiner[8], and that the rejection of claim 20 should be reconsidered and withdrawn.

The above remarks concerning claim 20 are equally applicable to the other independent claims under consideration, namely claims 35 and 39, which are submitted as patentable on the same basis as claim 20. Claims 21-27 are dependent on claim 20 and are submitted as patentable on the same basis.

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Because claim 1 is allowable, and is generic to withdrawn claims 2-6 and 10-12 (those claims being dependent on claim 1), it is requested that claims 2-6 and 10-12 should also be allowed.

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[7] See page 6, lines 8-9 of the pending Office Action.

[8] One other point is worth mentioning in passing—given that trade-throughs are not even possible with Nordlicht's system, the Examiner's rationale for combining the SEC references with Nordlicht ("because it would allow one to identify when a customer is not getting the best price") does not seem to make much sense.

CONCLUSION

Accordingly, Applicants respectfully request allowance of the pending claims. If any issues remain, or if the Examiner has any further suggestions for expediting allowance of the present application, the Examiner is kindly invited to contact the undersigned via telephone at (203) 972-3460.

Respectfully submitted,

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